

[First Reprint]

SENATE, No. 494

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

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Senator WILLIAM L. GORMLEY

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District 29 (Essex and Union)

Co-Sponsored by:

**Senators Vitale, Weinberg, Karcher, Assemblywoman Cruz-Perez,
Assemblymen Gordon, Diegnan, Giblin, Assemblywoman Pou and
Assemblyman Whelan**

SYNOPSIS

"Bloodborne Disease Harm Reduction Act"; establishes demonstration program to permit operation of sterile syringe access programs; appropriates \$10 million.

CURRENT VERSION OF TEXT

As reported by the Senate Health, Human Services and Senior Citizens Committee on September 18, 2006, with amendments.

(Sponsorship Updated As Of: 12/12/2006)

1 AN ACT providing for sterile syringe access programs,
 2 supplementing '[Title] Titles'¹ 26 'and 13'¹ of the Revised
 3 Statutes and Title 2C of the New Jersey Statutes '[and],'¹
 4 amending P.L.1989, c.34¹, and making an appropriation¹.

5
 6 **BE IT ENACTED** by the Senate and General Assembly of the State
 7 of New Jersey:

8
 9 1. (New section) This act shall be known and may be cited as
 10 the "Bloodborne Disease Harm Reduction Act."

11
 12 2. (New section) The Legislature finds and declares that:

13 a. New Jersey, in comparison with other states nationwide, has
 14 the highest rate of '[HIV infection] cumulative AIDS cases'¹ among
 15 women, the third highest 'rate of cumulative'¹ pediatric '[HIV rate]
 16 AIDS cases'¹, the fifth highest adult HIV rate, and a rate of
 17 injection-related HIV infection that is almost twice the national
 18 average;

19 b. About one in every three persons living with HIV or AIDS is
 20 female;

21 c. 'More than a million people in the United States are frequent
 22 intravenous drug users at a cost to society in health care, lost
 23 productivity, accidents and crime of more than \$50 billion annually.

24 d.¹ Sterile syringe access programs have been proven effective
 25 in reducing the spread of HIV, hepatitis C and other bloodborne
 26 pathogens without increasing drug abuse or other adverse social
 27 impacts; yet New Jersey remains '[one of only two states] the only
 28 State'¹ nationwide that '[provide] provides'¹ no access to sterile
 29 syringes in order to prevent the spread of disease;

30 '[d.] e.'¹ Every scientific, medical and professional agency or
 31 organization that has studied this issue, including the federal
 32 Centers for Disease Control and Prevention, the American Medical
 33 Association, the American Public Health Association, the National
 34 Academy of Sciences, the National Institutes of Health Consensus
 35 Panel, the American Academy of Pediatrics, and the United States
 36 Conference of Mayors, has found sterile syringe access programs to
 37 be effective in reducing the transmission of HIV; and

38 '[e.] f.'¹ Sterile syringe access programs are designed to prevent
 39 the spread of HIV, hepatitis C and other bloodborne pathogens, and
 40 to provide a bridge to drug abuse treatment and other social services
 41 for drug users; and it is in the public interest to encourage the
 42 development of such programs in this State in accordance with
 43 statutory guidelines designed to ensure the safety of consumers who

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted September 18, 2006.

1 use these programs, the health care workers who operate them, and
2 the members of the general public.

3
4 3. (New section) The Commissioner of Health and Senior
5 Services shall 'establish a demonstration program to permit up to
6 six municipalities to operate a sterile syringe access program in
7 accordance with the provisions of this act. For the purposes of the
8 demonstration program, the commissioner shall' prescribe by
9 regulation requirements for a municipality to establish, or otherwise
10 authorize the operation within that municipality of, a sterile syringe
11 access program to provide for the exchange of hypodermic syringes
12 and needles in accordance with the provisions of this act.

13 a. The commissioner shall:

14 (1) request an application, to be submitted on a form and in a
15 manner to be prescribed by the commissioner, from any
16 municipality that seeks to establish a sterile syringe access program,
17 or from other entities authorized to operate a sterile syringe access
18 program within that municipality as provided in paragraph (2) of
19 subsection a. of section 4 of this act;

20 (2) approve those applications that meet the requirements
21 established by regulation of the commissioner and contract with the
22 municipalities or entities whose applications are approved to
23 establish a sterile syringe access program as provided in paragraph
24 (2) of subsection a. of section 4 of this act to operate a sterile
25 syringe access program in any municipality in which the governing
26 body has authorized the operation of sterile syringe access programs
27 within that municipality by ordinance;

28 (3) support and facilitate, to the maximum extent practicable, the
29 linkage of sterile syringe access programs to such health care
30 facilities and programs as may provide appropriate health care
31 services, including mental health and substance abuse treatment,
32 'and to housing assistance, career employment-related counseling,
33 and education counseling' to consumers participating in any such
34 program;

35 (4) provide for the adoption of a uniform identification card or
36 other uniform Statewide means of identification for consumers,
37 staff and volunteers of a sterile syringe access program pursuant to
38 paragraph (8) of subsection b. of section 4 of this act; and

39 (5) maintain a record of the data reported to the commissioner by
40 sterile syringe access programs pursuant to paragraph (10) of
41 subsection b. of section 4 of this act.

42 b. The commissioner shall be authorized to accept such funding
43 as may be made available from the private sector to effectuate the
44 purposes of this act.

45
46 4. (New section) a. In accordance with the provisions of section
47 3 of '[this act] P.L. , c. (C.) (pending before the Legislature

1 as this bill)¹, a municipality may establish or authorize
2 establishment of a sterile syringe access program that is approved
3 by the commissioner to provide for the exchange of hypodermic
4 syringes and needles.

5 (1) A municipality that establishes a sterile syringe access
6 program¹, at a fixed location or through a mobile access
7 component,¹ may operate the program directly or contract with one
8 or more of the following entities to operate the program: a hospital
9 or other health care facility licensed pursuant to P.L.1971, c.136
10 (C.26:2H-1 et seq.), a federally qualified health center, a public
11 health agency, a substance abuse treatment program, an AIDS
12 service organization, or another nonprofit entity designated by the
13 municipality. These entities shall also be authorized to contract
14 directly with the commissioner in any municipality in which the
15 governing body has authorized the operation of sterile syringe
16 access programs by ordinance pursuant to paragraph (2) of this
17 subsection. 'The municipality or entity under contract shall
18 implement the sterile syringe access program in consultation with a
19 federally qualified health center and the New Jersey Office on
20 Minority and Multicultural Health in the Department of Health and
21 Senior Services, and in a culturally competent manner.¹

22 (2) Pursuant to paragraph (2) of subsection a. of section 3 of
23 '[this act] P.L. , c. (C.) (pending before the Legislature as
24 this bill)¹, a municipality whose governing body has authorized the
25 operation of sterile syringe access programs within the municipality
26 may require within the authorizing ordinance that an entity as
27 described in paragraph (1) of this subsection obtain approval from
28 the municipality, in a manner prescribed by the authorizing
29 ordinance, to operate a sterile syringe access program prior to
30 obtaining approval from the commissioner to operate such a
31 program, or may permit the entity to obtain approval to operate
32 such a program by application directly to the commissioner without
33 obtaining prior approval from the municipality.

34 (3) Two or more municipalities may jointly establish or authorize
35 establishment of a sterile syringe access program that operates
36 within those municipalities pursuant to adoption of an ordinance by
37 each participating municipality pursuant to this section.

38 b. A sterile syringe access program shall comply with the
39 following requirements:

40 (1) Sterile syringes and needles shall be provided at no cost to
41 consumers 18 years of age and older;

42 (2) Program staff shall be trained and regularly supervised in:
43 harm reduction; substance abuse, medical and social service
44 referrals; and infection control procedures, including universal
45 precautions and needle stick injury protocol; and programs shall
46 maintain records of staff and volunteer training and of hepatitis C
47 and tuberculosis screening provided to volunteers and staff;

1 (3) The program shall offer information about HIV, hepatitis C
2 and other bloodborne pathogens and prevention materials at no cost
3 to consumers, and shall seek to educate all consumers about safe
4 and proper disposal of needles and syringes;

5 (4) The program shall provide information and referrals to
6 consumers, including HIV testing options, access to '[substance]
7 drug' abuse treatment programs, and available health and social
8 service options relevant to the consumer's needs', shall encourage
9 consumers to receive an HIV test, and shall also, when appropriate,
10 develop an individualized drug abuse treatment plan for each
11 participating consumer';

12 (5) The program shall screen out consumers under 18 years of
13 age from access to syringes and needles, and shall refer them to
14 '[substance] drug' abuse treatment and other appropriate programs
15 for youth;

16 (6) The program shall develop a plan for the handling and
17 disposal of used syringes and needles in accordance with
18 requirements set forth at N.J.A.C.7:26-3A.1 et seq. for regulated
19 medical waste disposal pursuant to the "Comprehensive Regulated
20 Medical Waste Management Act," P.L.1989, c.34 (C.13:1E-48.1 et
21 al.), and shall also develop and maintain protocols for post-
22 exposure treatment;

23 (7) The program shall maintain the confidentiality of consumers
24 by the use of confidential identifiers, which shall consist of the first
25 two letters of the first name of the consumer's mother and the two-
26 digit day of birth and two-digit year of birth of the consumer, or by
27 the use of such other uniform Statewide mechanism as may be
28 approved by the commissioner for this purpose;

29 (8) The program shall provide a uniform identification card that
30 has been approved by the commissioner to consumers and to staff
31 and volunteers involved in transporting, exchanging or possessing
32 syringes and needles, or shall provide for such other uniform
33 Statewide means of identification as may be approved by the
34 commissioner for this purpose;

35 (9) The program shall provide consumers at the time of
36 enrollment with a schedule of program operation hours and
37 locations, in addition to information about prevention and harm
38 reduction and '[substance] drug' abuse treatment services; and

39 (10) The program shall '[provide aggregate data on a quarterly
40 basis to the commissioner, on a form and in a manner determined
41 by the commissioner, that includes: the number of consumers
42 served by the program, the number of syringes and needles
43 distributed each month, and the number and type of referrals
44 provided to consumers] establish and implement accurate data
45 collection methods and procedures as required by the commissioner
46 for the purpose of evaluating the sterile syringe access programs,
47 including the monitoring and evaluation on a quarterly basis of:

1 (a) sterile syringe access program participation rates, including
2 the number of consumers who enter drug abuse treatment programs
3 and the status of their treatment;

4 (b) the effectiveness of the sterile syringe access programs in
5 meeting their objectives, including, but not limited to, return rates
6 of syringes and needles distributed to consumers and the impact of
7 the sterile syringe access programs on intravenous drug use; and

8 (c) the number and type of referrals provided by the sterile
9 syringe access programs and the specific actions taken by the sterile
10 syringe access programs on behalf of each consumer¹.

11 c. A municipality may terminate a sterile syringe access
12 program established or authorized pursuant to this act, which is
13 operating within that municipality, if its governing body approves
14 such an action by ordinance, in which case the municipality shall
15 notify the commissioner of its action in a manner prescribed by
16 regulation of the commissioner.

17
18 5. (New section) a. ¹(1)¹ The Commissioner of Health and
19 Senior Services shall report to the Governor and¹, pursuant to
20 section 2 of P.L.1991, 164 (C.52:14-19.1),¹ the Legislature, no later
21 than one year after the effective date of this act and ¹【biannually】
22 biennially¹ thereafter, on the status of sterile syringe access
23 programs established pursuant to sections 3 and 4 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill), and shall
25 include in that report the data provided to the commissioner by each
26 sterile syringe access program pursuant to paragraph (10) of
27 subsection b. of section 4 of P.L. , c. (C.) (pending before
28 the Legislature as this bill).

29 ¹(2) For the purpose of each biennial report pursuant to
30 paragraph (1) of this subsection, the commissioner shall:

31 (a) consult with local law enforcement authorities regarding the
32 impact of the sterile syringe access programs on the rate and
33 volume of crime in the affected municipalities and include that
34 information in the report; and

35 (b) seek to obtain data from public safety and emergency medical
36 services providers Statewide regarding the incidence and location of
37 needle stick injuries to their personnel and include that information
38 in the report.¹

39 b. The commissioner shall report to the Governor and¹, pursuant
40 to section 2 of P.L.1991, 164 (C.52:14-19.1),¹ the Legislature¹,¹ no
41 later than six months after the date that the initial sterile syringe
42 access program, which is approved by the commissioner pursuant to
43 section 3 of P.L. , c. (C.) (pending before the Legislature as
44 this bill), commences its operations, and shall include in that report:

45 (1) an assessment of whether an adequate number of
46 ¹【substance】 drug¹ abuse treatment program slots is available to
47 meet the treatment needs of persons who have been referred to

1 '【substance】 drug' abuse treatment programs by sterile syringe
2 access programs pursuant to paragraph (4) of subsection b. of
3 section 4 of P.L. , c. (C.) (pending before the Legislature as
4 this bill); and

5 (2) a recommendation for such appropriation as the
6 commissioner determines necessary to ensure the provision of an
7 adequate number of '【substance】 drug' abuse treatment program
8 slots for those persons.

9 'c. The commissioner shall contract with an entity that is
10 independent of the department to prepare a detailed analysis of the
11 sterile syringe access programs, and to report on the results of that
12 analysis to the Governor, the Governor's Advisory Council on
13 HIV/AIDS and Related Blood-Borne Pathogens, and, pursuant to
14 section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, no
15 later than 24 months after the adoption of regulations required
16 pursuant to subsection b. of section 7 of P.L. , c. (C.)
17 (pending before the Legislature as this bill) and annually thereafter.
18 The analysis shall include, but not be limited to:

19 (1) any increase or decrease in the spread of HIV, hepatitis C and
20 other blood-borne pathogens that may be transmitted by the use of
21 contaminated syringes and needles;

22 (2) the number of exchanged syringes and needles and an
23 evaluation of the disposal of syringes and needles that are not
24 returned by consumers;

25 (3) the number of consumers participating in the sterile syringe
26 access programs and an assessment of their reasons for participating
27 in the programs;

28 (4) the number of consumers in the sterile syringe access
29 programs who participated in drug abuse treatment programs; and

30 (5) the number of consumers in the sterile syringe access
31 programs who benefited from counseling and referrals to programs
32 and entities that are relevant to their health, housing, social service,
33 employment and other needs.

34 d. Within 90 days after receipt of the third report pursuant to
35 subsection c. of this section, the commissioner shall submit to the
36 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
37 19.1), the Legislature, on a day when both Houses of the
38 Legislature are meeting in the course of a regular or special session,
39 the commissioner's recommendations regarding whether or not to
40 continue the demonstration program established pursuant to this act.
41 The commissioner's recommendations shall be effective unless the
42 Legislature passes a concurrent resolution overriding the
43 commissioner's recommendations no later than the 45th day after
44 its receipt of those recommendations.'

45
46 '6. (New section) a. The Commissioner of Human Services
47 shall develop a plan for establishing and funding regional substance

1 abuse treatment facilities. The plan shall include a strategy for
2 soliciting proposals from nonprofit agencies and organizations in
3 the State, including State-licensed health care facilities, with
4 experience in the provision of long-term care or outpatient
5 substance abuse treatment services to meet the post-acute health,
6 social, and educational needs of persons living with HIV/AIDS.

7 b. The commissioner shall submit the plan to the Governor and,
8 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the
9 Legislature no later than the 120th day after the effective date of
10 this act, and shall report biannually thereafter to the Governor and,
11 pursuant to section 2 of P.L.1991, 164 (C.52:14-19.1), the
12 Legislature on the implementation of the plan.¹

13
14 ¹[6.] 7. (New section) a. The Commissioner of Health and
15 Senior Services, in consultation with the Commissioner of
16 Environmental Protection and pursuant to the "Administrative
17 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
18 rules and regulations to effectuate the purposes of sections 3 and 4
19 of P.L. , c. (C.)(pending before the Legislature as this
20 bill).

21 b. Notwithstanding any provision of P.L.1968, c.410 to the
22 contrary, the commissioner shall adopt, immediately upon filing
23 with the Office of Administrative Law and no later than the 90th
24 day after the effective date of this act, such regulations as the
25 commissioner deems necessary to implement the provisions of
26 sections 3 and 4 of P.L. , c. (C.)(pending before the
27 Legislature as this bill), which shall be effective until the adoption
28 of rules and regulations pursuant to subsection a. of this section and
29 may be amended, adopted or readopted by the commissioner in
30 accordance with the requirements of P.L.1968, c.410.

31
32 ¹[7.] 8. (New section) The possession of a hypodermic
33 syringe or needle by a consumer who participates in, or an
34 employee or volunteer of, a sterile syringe access program
35 established pursuant to sections 3 and 4 of P.L. , c. (C.)(pending
36 before the Legislature as this bill) shall not constitute an offense
37 pursuant to N.J.S.2C:36-1 et seq. This provision shall extend to a
38 hypodermic syringe or needle that contains a residual amount of a
39 controlled dangerous substance or controlled substance analog.

40
41 ¹[8.] 9. Section 3 of P.L.1989, c.34 (C.13:1E-48.3) is amended
42 to read as follows:

43 3. As used in sections 1 through 25 of this act:

44 "Board" means the Board of Public Utilities.

45 "Collection" means the activity related to pick-up and
46 transportation of regulated medical waste from a generator, or from

1 an intermediate location, to a facility, or to a site outside the State,
2 for disposal.

3 "Commissioners" means the Commissioner of Environmental
4 Protection and the Commissioner of Health and Senior Services.

5 "Departments" means the Department of Environmental
6 Protection and the Department of Health and Senior Services.

7 "Dispose" or "disposal" means the storage, treatment, utilization,
8 processing, resource recovery of, or the discharge, deposit,
9 injection, dumping, spilling, leaking, or placing of any regulated
10 medical waste into or on any land or water so that the regulated
11 medical waste or any constituent thereof may enter the environment
12 or be emitted into the air or discharged into any waters, including
13 groundwaters.

14 "Facility" means a solid waste facility as defined in section 3 of
15 P.L.1970, c.39 (C.13:1E-3); or any other incinerator or commercial
16 or noncommercial regulated medical waste disposal facility in this
17 State that accepts regulated medical waste for disposal.

18 "Federal Act" means the "Medical Waste Tracking Act of 1988"
19 (42U.S.C. s.6903 et seq.), or any rule or regulation adopted
20 pursuant thereto.

21 "Generator" means an ambulatory surgical or care facility,
22 community health center, medical doctor's office, dentist's office,
23 podiatrist's office, home health care agency, health care facility,
24 hospital, medical clinic, morgue, nursing home, urgent care center,
25 sterile syringe access program operating pursuant to sections 3 and
26 4 of P.L. , c. (C.)(pending before the Legislature as this bill),
27 veterinary office or clinic, animal, biological, clinical, medical,
28 microbiological, or pathological diagnostic or research laboratory,
29 any of which generates regulated medical waste, or any other
30 facility identified by the departments that generates regulated
31 medical waste. "Generator" shall not include individual households
32 utilizing home self-care.

33 "Regulated medical waste" means blood vials; cultures and
34 stocks of infectious agents and associated biologicals, including
35 cultures from medical and pathological laboratories, cultures and
36 stocks of infectious agents from research and industrial laboratories,
37 wastes from the production of biologicals, discarded live and
38 attenuated vaccines, and culture dishes and devices used to transfer,
39 inoculate, and mix cultures; pathological wastes, including tissues,
40 organs, and body parts that are removed during surgery or autopsy;
41 waste human blood and products of blood, including serum, plasma,
42 and other blood components; sharps that have been used in patient
43 care or in medical, research, or industrial laboratories engaged in
44 medical research, testing, or analysis of diseases affecting the
45 human body, including hypodermic needles, syringes, Pasteur
46 pipettes, broken glass, and scalpel blades; contaminated animal
47 carcasses, body parts, and bedding of animals that were exposed to
48 infectious agents during research, production of biologicals, or

1 testing of pharmaceuticals; any other substance or material related
2 to the transmission of disease as may be deemed appropriate by the
3 departments; and any other substance or material as may be
4 required to be regulated by, or permitted to be exempted from, the
5 Federal Act. The departments may adopt, by rule or regulation and
6 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
7 (C.52:14B-1 et seq.), a more specific definition of regulated
8 medical waste upon the expiration of the demonstration program
9 established under the Federal Act.

10 "Noncommercial facility" means a facility or on-site generator,
11 as the case may be, which accepts regulated medical waste from
12 other generators for on-site disposal for a cost-based fee not in
13 excess of the costs actually incurred by the facility or on-site
14 generator for the treatment or disposal of the regulated medical
15 waste.

16 "Transporter" means a person engaged in the collection or
17 transportation of regulated medical waste.

18 (cf: P.L.1989, c.34, s.3)

19
20 '[9.] 10.' (New section) a. The board of chosen freeholders of
21 each county and the New Jersey Meadowlands Commission, in
22 accordance with standards adopted by the Commissioner of
23 Environmental Protection in consultation with the Commissioner of
24 Health and Senior Services, shall prepare and adopt a sharps
25 disposal component as an amendment to the district solid waste
26 management plan required pursuant to the provisions of the "Solid
27 Waste Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) to
28 provide for the proper and safe disposal of medical waste generated
29 at home within the district.

30 b. The sharps disposal component of each district solid waste
31 management plan shall be developed in consultation with a work
32 group established by the governing body of the affected county and
33 the New Jersey Meadowlands Commission, in the case of the
34 Hackensack Meadowlands District, that includes persons not
35 employed by or affiliated with the county or the commission, as the
36 case may be, who have a demonstrated interest or expertise in the
37 use and disposal of sharps, including, but not limited to,
38 representatives of waste management companies, persons with
39 diabetes and licensed health care facilities.

40 c. The Commissioner of Environment Protection shall provide
41 such financial assistance as may be available to the commissioner
42 for the purpose of this section to the various counties to implement
43 the sharps disposal component of the district solid waste
44 management plan. The commissioner shall be authorized to accept
45 such funding as may be made available from the private sector to
46 effectuate the purposes of this section.

- 1 '10.1' (New section) a. The Commissioner of
2 Environmental Protection, in consultation with the Commissioner of
3 Health and Senior Services and pursuant to the "Administrative
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt
5 rules and regulations to effectuate the purposes of section '9] 10'
6 of P.L. , c. (C.) (pending before the Legislature as this
7 bill).
- 8 b. Notwithstanding any provision of P.L.1968, c.410 to the
9 contrary, the commissioner shall adopt, immediately upon filing
10 with the Office of Administrative Law and no later than the 90th
11 day after the effective date of this act, such regulations as the
12 commissioner deems necessary to implement the provisions of
13 section '9] 10' of P.L. , c. (C.)(pending before the
14 Legislature as this bill), which shall be effective until the adoption
15 of rules and regulations pursuant to subsection a. of this section and
16 may be amended, adopted or readopted by the commissioner in
17 accordance with the requirements of P.L.1968, c.410.
18
- 19 '12. (New section) There is appropriated \$10,000,000 from the
20 General Fund to the Division of Addiction Services in the
21 Department of Human Services for inpatient and outpatient drug
22 abuse treatment program slots and outreach.'
23
- 24 '11.1' 13.' This act shall take effect immediately.